

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEUNG KI LEE,

Plaintiff,

ORDER

-against-

20 Civ. 10787 (JCM)

MANI & PEDI INC. and KUMWOO PARK,

Defendants.

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Effective immediately, in light of a new District-wide health and safety protocol, it is hereby ORDERED:

1. For the reasons set forth on the record at the final pre-trial conference on February 1, 2022, only testifying witnesses will be permitted to remove their masks during the trial scheduled to commence on February 14, 2022.
2. Anyone who is otherwise permitted to remove their mask in a courtroom may do so **only** if they have tested negative for COVID-19 using an approved molecular diagnostic test (see list below) **on the day of and prior to** when they remove their mask in the courtroom. This protocol shall apply even when the person is in a HEPA-filter-outfitted and Plexiglas-enclosed witness box or podium, and even if they are fully vaccinated and have received a booster shot.
3. If a person will remove their mask on successive days, the person may test on an every-other-day schedule.
4. This protocol **does not** apply to incarcerated persons, who are tested at their facilities prior to being transported to the Courthouse.
5. This protocol also **does not** apply to persons who have had a confirmed case of COVID-19 (verified by either a doctor's note or a viral test result) within the 90 days before the date on which they will remove their mask. Parties must provide proof of the witness's confirmed case of COVID-19 to the Covid Response team at Covid_Response@nysd.uscourts.gov and to the Chambers e-mail address at mccarthy_nysdchambers@nysd.uscourts.gov by no later than February 9, 2022.
6. The Court will provide court-approved test kits to be self-administered by the witness, free-of-charge. The court-provided test must be taken at least one hour before the witness's appearance in the courtroom. The test can be obtained and self-administered in Room 127 at the White Plains Courthouse, 300 Quarropas Street, under the supervision of court staff.

To schedule a time to take the court-approved test, counsel must e-mail Covid_Response@nysd.uscourts.gov and Bonnie_Waldron@nysd.uscourts.gov, or call the District Executive's office at (914) 390-4186, by no later than February 9, 2022.

7. If a witness elects not to take a court-provided test, the following is a list of approved tests that may be taken. Any questions regarding which tests are approved must be directed to the Covid Response team at Covid_Response@nysd.uscourts.gov. (NOTE: Antigen tests are **not** approved.) **To be clear, if a witness elects to take one of the following tests, the test must be taken on the day of and prior to when they remove their mask in the courtroom.**

- PCR / RT-PCR / ddPCR / Rapid PCR (Polymerase Chain Reaction)
- NAA / NAAT (Nucleic Acid Amplification)
- AMP PRB (Amplified Probe)
- LAMP (Loop-mediated Isothermal Amplification), including but not limited to the following brand:
 - Lucira Health
- TMA (Transcription-mediated Amplification), including but not limited to the following brands:
 - Abbott ID NOW
 - Quidel Lyra PCR
 - Abbott Realtime PCR
 - Cobas Qualitative PCR
 - FTD PCR
 - Xpert Xpress
 - Simplexa Direct PCR
 - RUCDR Infinite Biologics

The following is a list of tests that are NOT approved:


- All tests that do not have FDA authorization or approval
- All Antigen (Ag) tests (including but not limited to Quidel Sophia, Abbott BinaxNOW and Rapid Antigen Tests)
- All Antibody tests (such as IgG, IgA, IgM and Rapid Antibody Tests)
- All blood tests (such as fingerstick, venipuncture)
- All plasma tests
- All serum tests
- All lateral flow tests
- Any doctor's note

8. Confirmation of EITHER a negative test result on the day of testimony OR a confirmed case of COVID-19 within the prior 90 days must be submitted to the Court through its staff **BEFORE** the person can remove their mask in the courtroom.

Furthermore, counsel must familiarize themselves with the Court's COVID-19 protocols for entering the Courthouse. (*See* Attachment A). It is counsel's responsibility to check the Court's website (<https://nysd.uscourts.gov/covid-19-coronavirus>) for any updates to the current guidelines prior to the start of trial. Any concerns regarding attorneys and/or witnesses meeting the criteria for entrance shall be brought to the Court's attention immediately via e-mail to mccarthy_nysdchambers@nysd.uscourts.gov.

Dated: February 1, 2022
White Plains, NY

SO ORDERED:



JUDITH C. McCARTHY
United States Magistrate Judge

Attachment A

Chief Judge
Laura Taylor Swain

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: CORONAVIRUS/COVID-19 PANDEMIC

M10-468

THIS MATTER RELATES TO: Restrictions on Entry
to the Courthouses

TENTH AMENDED
STANDING ORDER

In the interest of public health and safety, and after consideration of public health guidelines issued by the Centers for Disease Control and Prevention, New York State, New York City, Westchester County, and other public health authorities, the United States District Court for the Southern District of New York hereby orders that, effective immediately and until this order is rescinded,

IT IS HEREBY ORDERED that any person who has tested positive for COVID-19, or been told by a health-care provider to assume they have COVID-19 due to symptoms or other factors, in the past 10 days is not permitted to enter the courthouses.

IT IS HEREBY ORDERED that any person who has experienced symptoms of COVID-19 in the past 10 days, including fever, cough, shortness of breath or difficulty breathing, extreme fatigue, nausea or vomiting, congestion or runny nose, muscle or body aches, headache, sore throat, new loss of taste or smell, and diarrhea, must consult the memorandum titled COVID-19 Protocols Following Symptoms or Exposure to COVID-19, which can be found on the Court's website at <https://www.nysd.uscourts.gov/covid-19-coronavirus>, to determine whether they can enter the courthouses.

IT IS HEREBY ORDERED that any person who has been in close contact with anyone with COVID-19 in the past 14 days must consult the memorandum titled COVID-19 Protocols Following Symptoms or Exposure to COVID-19, which can be found on the Court's website at <https://www.nysd.uscourts.gov/covid-19-coronavirus>, to determine whether they can enter the courthouses.

IT IS HEREBY ORDERED that any person who has been in close contact with anyone with symptoms of COVID-19 in the past 14 days must consult the memorandum titled COVID-19 Protocols Following Symptoms or Exposure to COVID-19, which can be found on the Court's website at <https://www.nysd.uscourts.gov/covid-19-coronavirus>, to determine whether they can enter the courthouses.

IT IS HEREBY ORDERED that any person who has traveled in the past 10 days must follow the protocols that are set forth in the memorandum titled COVID-19 Protocols Following Travel, which can be found on the Court's website at <https://www.nysd.uscourts.gov/covid-19-coronavirus>, to determine whether they can enter the courthouses.

IT IS HEREBY ORDERED that the following persons may not enter any courthouse in the Southern District of New York:

- Unvaccinated persons who have been on a cruise ship or river voyage in the past 10 days.
- Unvaccinated persons who have attended an indoor gathering of more than 50 people at a private residence in the past 14 days, including but not limited to parties, celebrations or other social events.
- Unvaccinated persons who have been released from a federal, state or local jail, prison or other correctional institution within the last 14 days, except those who are reporting to be fit with a location monitoring device.
- Persons who do not meet the criteria for entry as determined by the SDNY COVID-19 entry questionnaire, which can be accessed at <https://www.nysd.uscourts.gov/covid-19-coronavirus>.

*Fully vaccinated is defined as being 2 or more weeks after the final dose (e.g., first for Janssen/Johnson & Johnson, second for Pfizer and Moderna) of the vaccine approved by the FDA or authorized by the FDA for emergency use. Vaccines that are not authorized by the U.S. Federal Drug Administration (FDA) for emergency use or approved by the FDA do not satisfy this definition.

Anyone attempting to enter in violation of these protocols will be denied entry by a Court Security Officer.

Anyone who has business in one of the courthouses of the Southern District of New York, but who cannot enter because of this order, should do the following:

- Persons who are represented by an attorney should contact their attorney;
- Attorneys or pro se litigants who are scheduled to appear in court before a judge should contact the judge's chambers directly (contact information may be found in the Judges' Individual Practices on the court's public web page);
- Persons who are scheduled to meet with a Pretrial Services Officer should contact the Office of Pretrial Services at (212) 805-4300;
- Persons who are scheduled to meet with a Probation Officer should contact the Probation Office at (212) 805-0040;
- Jurors should contact the Jury Department at (212) 805-0179;
- Employees reporting to work at the courthouse should contact their supervisor;
- Persons having any other business with the United States District Court for the Southern District of New York should contact the Clerk of Court at (212) 805-0140;
- Persons having business with the United States Court of Appeals for the Second Circuit should contact Catherine Wolfe, Clerk of Court, at (646) 584-2696;
- Persons having business with the United States Bankruptcy Court for the Southern District of New York should contact Bankruptcy Court Services at (212) 284-4040;
- For all other matters, please contact the District Executive's Office at (212) 805-0500.

IT IS FURTHER ORDERED that each person who comes to one of the courthouses of the Southern District of New York for any reason must pass through the following entry screening process:

- Answer screening questions about COVID-19 vaccination status, COVID-19 symptoms and potential exposure. A person whose answers indicate that they are at increased risk of being contagious with COVID-19 will not be permitted to enter the courthouse.¹
- If unvaccinated (or not yet fully vaccinated), have their temperature taken, using a contactless thermometer. A person with a temperature of 100.4 degrees or higher will not be permitted to enter the courthouse.

¹ Authorized employees and other persons who have received a Court sticker confirming their vaccination status must review and comply with the entry criteria at <https://www.nysd.uscourts.gov/covid-19-coronavirus>.

- Wear a N95, KN95 or KF94 mask that covers the person's nose and mouth. Bandannas, gaiters, masks with valves, surgical masks and cloth masks are not permitted. If a person does not have an approved mask, a screener will provide one.
- Apply hand sanitizer, which will be available at all courthouse entrances.

IT IS FURTHER ORDERED that while in the courthouse, all persons must comply with the following rules:

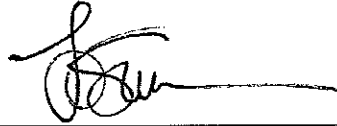
- **Face Coverings:** For masking rules specific to participants in courtroom proceedings, please see the document titled COVID-19 Courtroom Protocols on the Court's website in the section titled SDNY Response to COVID-19. In all other public areas of the courthouse (including courtroom galleries, hallways, public counters, elevators) all persons must wear a N95, KN95 or KF94 mask that covers their nose and mouth. All persons must also wear a N95, KN95 or KF94 mask in all non-public shared space/common areas where more than one person is assigned to work. These rules apply unless a specific exception has been requested and approved by the Court's COVID-Response Team prior to an individual's entry to the courthouse.
- **Social Distancing:** For distancing rules specific to participants in courtroom proceedings, please see the document titled COVID-19 Courtroom Protocols on the Court's website in the section titled SDNY Response to COVID-19. All persons must adhere to safe social distancing rules as indicated by markings on floors and benches, or as directed by court staff. . If you are standing in line, you must keep six feet away from the person in front of you and behind you, unless you are taking care of a small child or assisting someone with special needs. Elevator capacity will be limited as posted. ..
- **Instructional Signage:** You must abide by all health and hygiene signage throughout the courthouses, including signage regarding masks, social distancing, occupancy restrictions, and hand washing.

Anyone who fails or refuses to abide by these rules will be required to leave the courthouse immediately.

This order supersedes and replaces the Ninth Amended Standing Order on Restrictions to Entry to Courthouses that was entered on August 6, 2021, and will remain in place until further notice.

People who think they may have been exposed to COVID-19 should contact their healthcare provider immediately.

ENTERED this 22nd day of December, 2021, at New York, New York.

A handwritten signature in black ink, appearing to read 'L. Swain', is positioned above a horizontal line.

LAURA TAYLOR SWAIN
Chief United States District Judge



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Office of the District Court Executive

LAURA TAYLOR SWAIN
Chief Judge

EDWARD A. FRIEDLAND
District Court Executive

MEMORANDUM

TO: All Persons
FROM: SDNY COVID-19 Response Team
DATE: January 12, 2022
SUBJECT: COVID-19 PROTOCOLS FOLLOWING SYMPTOMS OR
EXPOSURE TO COVID-19

Effective today, the following COVID-19 Protocols apply to all those seeking to enter the courthouses:

If you have tested positive for COVID-19 in the past 10 days, please consult the COVID-19 Response Team at COVID_Response@nysd.uscourts.gov for guidance on when you may enter the courthouse. The following guidance applies to those who have not tested positive for COVID-19 in the past 10 days.

If you have had symptoms of COVID-19 in the past 10 days that are not explained by allergies or another underlying condition, including fever, cough, shortness of breath or difficulty breathing, extreme fatigue, nausea or vomiting, congestion or runny nose, muscle or body aches, headache, sore throat, new loss of taste or smell, and diarrhea:

- If you are **unvaccinated** or are more than six months out from your second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, you are not permitted to enter the courthouse.
- If you are **fully vaccinated and boosted**, you may enter the courthouse provided your symptoms have resolved and you received a negative result on a molecular diagnostic test (e.g., PCR).

If you have been in close contact* with someone with COVID-19 in the past 14 days:

- If you are **unvaccinated** or are more than six months out from your second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, you are not permitted to enter the courthouse.

- If you are **fully vaccinated and boosted and you have ongoing exposure to the infected person** (e.g., they reside with you), you must wait until 10 days have passed since the start of the infected person's symptoms (or the date that they tested, if they are asymptomatic) and then you must take a rapid test^[1] and a molecular diagnostic test (e.g., PCR). As long as the rapid test is negative, you may enter the courthouse while you are waiting for the results of the molecular diagnostic test.
- If you are **fully vaccinated and boosted and you do not have ongoing exposure to the infected person**, you may enter the courthouse, but you must take a rapid antigen test and a molecular diagnostic test (e.g., PCR) no sooner than 5 days following your exposure. As long as your rapid antigen test is negative, you may enter the courthouse while your molecular diagnostic test results are pending.

If you have been in **close contact*** in the past 14 days with someone who has exhibited symptoms of COVID-19 that are not explained by allergies or an underlying condition, but has not been diagnosed with COVID-19:

- If you are **unvaccinated** or are more than six months out from your second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, you are not permitted to enter the courthouse.
- If you are **fully vaccinated and boosted**, you are permitted to enter the courthouse.

If you live with someone who is currently under quarantine because they had close contact with an individual who tested positive for COVID-19 (e.g., they were exposed at school or at work):

- If you are **unvaccinated** or are more than six months out from your second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, you are not permitted to enter the courthouse until the person's quarantine has ended.
- If you are **fully vaccinated and boosted**, you are permitted to enter the courthouse.

*Close contact is defined as being less than 6 feet away from the infected person for a cumulative total of 10 minutes or more over a 24-hour period (e.g., two individual 5-minute exposures for a total of 10 minutes).

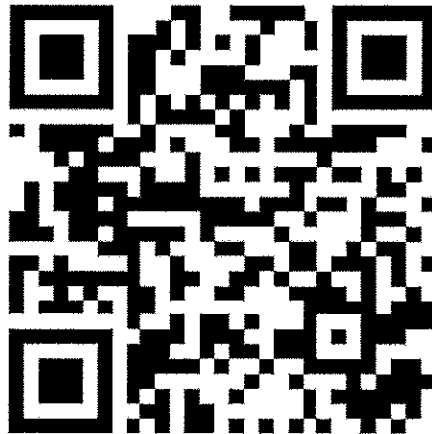
Any questions regarding the Court's COVID-19 Protocols should be directed to the COVID-19 Response Team at Covid_Response@nysd.uscourts.gov.

^[1] Antigen tests and at-home test kits are acceptable for this purpose, as long as they are approved or authorized by the FDA.

ATTENTION:

ALL ENTERING THE COURTHOUSE

Instructions for Entering the Courthouse



<https://app.certify.me/SDNYPublic>

Step 1:

Scan this QR code on your phone or visit the website listed to begin the registration process.

****To scan, use your phone camera and click the subsequent link that appears.**

Step 2:

Fill out the form that appears. Be sure to use a mobile phone number.

Step 3:

Complete the Questionnaire.

Step 4:

Use your QR code, sent via text message, to scan in and enter the Courthouse. Proceed to the scanner, scan your QR code, and have your temperature taken via the thermal scanner. If the temperature reading is within the normal range, you may proceed into the Courthouse. If your temperature exceeds the normal range, you are denied entry into any SDNY courthouse at this time, per Standing Order 20 Misc. 164.

The QR code will be needed each time you enter the Courthouse throughout the day. The code expires at the end of the day.

****If you have any questions, please call (212) 805-0500**